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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 23

Application Number: 09/448,804
Filing Date: November 24, 1999
Appellant(s): SALGADO ET AL.

Geza C. Ziegler, Reg. No. 44,004
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 12/26/2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-14 does not stand or fall together. The grouping of claims in the brief is not done properly because the same claim numbers cross-referenced in more than one group and Appellants' argument does not match with grouping. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

US Patent 6,189,146	Misra et al.	02-2001 (Filed: 03-1998)
US Patent 5,835,911	Nakagawa et al.	11-1998 (Filed: 08-1995)
US Patent 5,621,894	Menezes et al.	04-1997(Filed: 08-1995)

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

- Claims 1-2, 12- 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146), and in view of Nakagawa et al. (US Patent 5,835,911).
- Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146) and in view of Nakagawa et al. (US Patent 5,835,911) and further in view of Menezes et al. (US Patent 5,621,894).

This rejection is set forth in prior Office Action mailed on 10/22/2003, Paper No. 18.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-2, 12- 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146), and in view of Nakagawa et al. (US Patent 5,835,911).

3. As per independent claims 1, 12, Misra rendered by the following:

"a user interface connected to the system controller for displaying the software copyright data from the memory to a user" (a user connected to license server can access the license store information) at Fig. 2-3, col. 6, lines 6-8; col. 9, lines 62-67.

Misra teaching is analogous to "a system controller for collecting the software copyright data from multiple platforms" (at. Fig. 1,3, col. 11, lines 46-59). As shown in the Fig. 1, elements 30(1), 30(2) ... represent clients connected to intermediate servers elements 32(1), 30(2) ... These servers are connected to license server element 28. The clients (30) represented by many different kinds of computers (at Fig. 1, col. 5, lines 13-23). Misra does not teach explicitly software distribution over network. However, Nakagawa teaches specifically teaches a number of sets of software distribution and maintenance via network

connecting to many vendors and users of client/server software (see abstract of Nakagawa). So, Nakagawa teaches this limitation (at Fig. 1, col. 9, lines 47-63), the element 3 is the software vendor and clients are 1-1, 1-2, ..., 1-n are connected to software vendor computer 3 through a network 2. Thus it would have been obvious to one ordinarily skilled in the data processing art at the time of the invention decide to incorporate multiple software users. Distribution and maintenance of software license is necessary provide latest version of software and to eliminate unauthorized usage of the software.

4. As per dependent claims 2, 13, Misra teaches "the system controller for collecting the software copyright data from multiple platforms further comprises a memory for storing the software copyright data collected by the system controller" at Fig. 3, col. 6, lines 50-64.

5. As per dependent claim 14, Misra teaches "the memory for storing the software copyright data collected by the system controller further comprises non-volatile memory" at Fig. 2, col. 5, lines 40-53.

6. Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146) and in view of Nakagawa et al. (US Patent 5,835,911) and further in view of Menezes et al. (US Patent 5,621,894).

7. As per independent claim 3, Misra rendered by the following:
"displaying the collected attribute data..." at Fig. 2-3, Col. 6, line 15-17;
Table 3-4, col. 9, lines 1-61.

“polling at least two platforms...” Misra teaches similar to polling and it is achieving by the client reaching the license server (at Fig. 3, col. 10, line 30-37). Nakagawa also teaches similarly (at Fig. 6, col. 31, lines 49-53). However, Menezes teaches specifically polling platforms at Fig. 2, col. 16, lines 43-45. Thus, it would have been obvious to one ordinarily skilled in the art at the time of the invention decide to use polling other platforms/devices in the network to collect and consolidate the information in order to respond to the queried platform/device.

“collecting the attribute data...” Misra teaching is analogous to multiple users obtaining software license (at Fig. 3, col. 11, lines 46-59). However, Nakagawa teaches specifically at Fig. 1, col. 9, lines 47-63. Thus it would have been obvious to one ordinarily skilled in the data processing art at the time of the invention decide to incorporate multiple users. Distribution and maintenance of software license is necessary to eliminate unauthorized usage of the software.

8. As per dependent claims 4-5, 8, Menezes teaches “the step of polling at least two platforms for attribute data further comprises the step of automatically polling at least two platforms during power on of the at least two platforms” at Fig. 2, col. 17, lines 56-67.

9. As per claims 6 and 7, Misra teaches “the step of collecting copyright information...” at Fig. 4, col. 14, line 14-29.

As per claims 9, 10 and 11, Misra teaches “automatically displaying the attribute...” at Fig. 2-3, Col. 6, line 15-17; Table 3-4, col. 9, lines 1-61.

(11) Response to Argument

A. Claims 1-2 and 12-14 are unpatentable over Misra in view of Nakagawa under 35 U.S.C. §103(a):

Appellant argues that the references fail to teach collecting and displaying attribute data from multiple platforms. The Examiner respectfully disagrees with Appellant's interpretation of references. The claim 1 deals two aspects and they are:

- 1) Collecting attribute data form multiple computers.
- 2) Displaying attribute data the user when connected to the main computer.

Misra teaches software licensing system includes a license generator, licensing clearinghouse, license server and multiple clients at a company or entity. License generator at the clearinghouse creates a license pack based on the client request. To prevent copying multiple servers or clients, the license generator creates a license pack ID and provides to the license server. The license server is responsible for distributing the software and determining the client's operating system platform. To prevent an issued license from being copied from one client to another, the license server maintains the client image consisting of encrypted client ID, license ID and other information. (see the Abstract).

Misra teaches that a user connected to the license server (system manager as in the claim) the system manager should be considered as a computer which stores collected attributes data at Fig. 2-3, col. 6, lines 6-8; col. 9, lines 62-67. Misra teaches that a user can enter the intermediate server and the license server using any of the several listed input devices through a network. Tables 114 and 116 will provide the

company's license administrator (system manager as per current invention) in order to determine the company is in compliance with the terms of the license. The table 114 provides the license details whereas the table 116 provides the client assignment table. All these fields in the tables are considered as attributes or information items. The client provides the information to the license (server) administrator to get a newer version of software. The administrator checks the client provided information with respect to the tables data and for additional information the administrator will check their data by polling or accessing the client system. The further details are: the client (30) will have a license requester (132), challenge handler (134) and a license cache (136). The license server (28) is provided with the client ID and whenever the client information does not match then the server initiates a platform change. The client's challenge handler (134) handles the platform challenge from the license server (28) (Fig. 3, col. 11, lines 60-65).

Misra teaches that the multiple clients can request license server for the software. The clients 30 can be implemented as many different kinds of computers connected to the license server through intermediate server (32) using a network (at Fig. 2, col. 5, lines 13-25).

Whereas, Nakagawa teaches a method for software vendors distribution and maintenance to users when they are connecting through a network by using client/server software. The client program on the user's computer detects and inquires for the current software version. While the server program compares the data in the inquiry with data relating to the software latest version and if appropriate, sends the updated software and instructions to the client (see the Abstract). Regarding the

claim 1 other limitation, Nakagawa teaches vendor's computer collecting software current configuration information of users 1-1 to 1-n through a network (see Fig. 1, col. 9, lines 47-63). The vendor's computer compares the user information with the configuration of the updated version and if the information is matched then vendor's computer sends the updated version with instructions to the specific client among 1-1 to 1-n. Examiner treated the copyright information as the part of the software and explicit reference is not provided. Nakagawa also teaches the copyright of the software on several pages and in one instance gave an example (at Fig. 8, col. 39, lines 3-7). Nakagawa also teaches that all users can access the software summary information as well as the users are notified of the copyright policy (at col. 59, lines 66 to col. 60, line 27). From the common point of view the copyright year is provided by an organization like Trademark with a time limit to cover proprietary rights. Obtaining the software copyright year and related information is not the main concept of the disclosure and instead of that the information obtained from the client software version information and comparing with the client information stored on the software vendor server when the software is provided. The basic concept of the software copyright is not to misuse the use the software by commercializing or circulating without the approval of the vendor.

Appellants' argument states, "Misra does not gather data". In response to the Appellants' argument, Examiner respectfully disagrees because Misra do gathers the software information provided by the client and compared with the information stored on the license server whenever the client asks for an update version (at Fig. 3, col. 10,

lines 45-50). The license server also updates the client information for future analysis (at Fig. 3, col. 12, lines 8-16).

Appellants' argument states, "There is no collection of attribute data, or copyright data, from multiple platforms in Misra." In response to the Appellants' argument, Examiner respectfully disagrees because 'attribute data' are a very broad terms, it mean from software aspect is some information pertaining to the client and the software provided to the client. Misra teaches collecting that information in the license server nonvolatile memory (Fig. 3, element 120). Regarding 'multiple platforms' are also broad terms. Examiner clearly stated in the Office Action that Misra teaches analogous to the claim limitation (Fig. 1, element 30(1)- 30(6), col. 4, lines 15-17 and col. 5, lines 14-26). However, Nakagawa teaches the full limitation (at Fig. 1, col. 9, lines 47-63).

Regarding claim 2, Misra teaches storing the client (30(1...n)) software configuration data is stored on license server (28) (at Fig. 3, col. 6, lines 50-64). Whenever the client approaches the vendor for latest version software, the license server checks the information provided by the user with reference to the information stored on the license server and issues a software challenge to clarify to the client computer. If the information is the same as on the license server then the user is proved with the updated version of software with installation information.

Regarding claim 12 has the similar limitations as the claim 1, so the two claims 1 and 12 are grouped together by Examiner while writing Office Actions. Regarding the copyright information Nakagawa teaches the copyright information with the software as

in the earlier paragraphs (at Fig. 8, col. 39, lines 3-7 and col. 59, lines 66 to col. 60, line 27).

Regarding the claim 13, the claim is similar to the claim 2 and they were grouped together in the Office Action. Misra teaches this claim (at Fig. 3, col. 6, lines 50-64).

Claim 14, is stated similar claim 13 with an additional requirement of non-volatile memory for storage for client software information on the vendor's server, Misra teaches this claim (at Fig. 2, col. 5, lines 40-53).

B. Claims 3-11 are unpatentable over Misra in view of Nakagawa and further in view of Menezes et al. ("Menezes"), U.S. Patent No. 5,621,894.

Appellants' argument states "Claim 3 recites 'polling at least two platforms for attribute data.' Nothing of the sort is disclosed or suggested by Misra."

In response to the Appellants' argument, Examiner respectfully disagrees because in the earlier Office Action clearly stated as Misra teaches similar to polling and it is client achieving by reaching the license server (at Fig. 3, col. 10, lines 30-37). Nakagawa also teaches similarly (at Fig. 6, col. 31, lines 49-53). However, Menezes teaches specifically polling platforms (at Fig. 2, col. 16, lines 43-45).

The term "polling" is not defined in the specification and from a dictionary point of view the term "polling" is a scheduling event to send or receive information to a device, while several other systems share it. Polling concept is used mostly where communication lines are limited or the equipment (printer or fax) shared by several. Currently, every computer or server including PDA (Personal Device Assistant) is in a position to send or receive the information by itself at any time rather than allowing

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another system at a scheduled time (periodically) to reach the computer for specific information. By allowing polling to a device, it will interrupt the device processor during the scheduled event. For simplicity consider an example of polling a computer system from a group computers, when polling occurs to a specific computer system, the processor of that computer will be interrupted from doing a job and get ready to receive/send information from/to the polled device. Then, the term polling will lead to several different questions when it is not defined the disclosure.

The other two limitations of claim 3 are similar to claim 1, Misra and Nakagawa teaches them.

Claim 4 is a dependent claim of claim 3 and uses the extra term "automatically" polling at least two platforms. Whereas the claim 5, added extra terms as "at least one of the at least two platforms when polling is initiated by a user request." Examiner combined the two claims and additionally intended to combine the claim 8 also. Because of typo error claim 8 is missed in the Office Action. Examiner response to the Appellants' argument again leads to the polling so, there is no additional factor to discuss. These claims are taught by Menezes (at Fig. 2, col. 17, lines 56-67).

Claim 6 and 7 are also dependent claims Misra teaches at Fig. 4, col. 14, lines 14-29. Nakagawa also teaches these claims (at Fig. 1, col. 9, lines 47-63). Nakagawa also teaches the copyright of the software on several pages and in one instance gave an example (at Fig. 8, col. 39, lines 3-7).


The last group of claims 9-11 in the Appellants' argument is also dependent claims of claim 3 and they deal with automatically displaying the attribute data. Misra

teaches at Fig. 2-3, col. 6, lines 15-17 and Table 3-4, col. 9, lines 1-61. Nakagawa also teaches that all users can access the software summary information as well as the users are notified of the copyright policy (at col. 59, lines 66 to col. 60, line 27).

Conclusion

The references disclose the claimed invention of multiple platform architecture for managing attribute data. Misra teaches user interface and displaying the attribute data after receiving it and gathering or collecting and storing into tables. Nakagawa teaches the explicitly collecting the information from multiple platforms. Both references teach collecting data when clients approach the software licensing server/system. Whereas Mnezes reference has been brought into to meet the claimed term "polling". The three references used to reject all the claims and its limitations do teach about software and storing the client information related to the software. In light of the foregoing arguments, the Examiner respectfully requests the honorable Board of Appeals and Interferences to sustain the rejection.

Respectfully submitted,

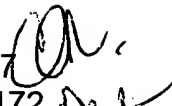
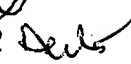

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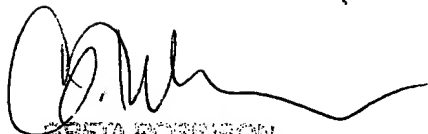
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